

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOANNE M. ROYER,
Plaintiff

V.

BLUE CROSS BLUE SHIELD
OF MASSACHUSETTS, INC.,
BLUE CROSS BLUE SHIELD
LONG-TERM DISABILITY BENEFIT
PLAN, a/k/a OMNIBUS WELFARE
BENEFITS PLAN
KEMPER NATIONAL SERVICES, INC.,
BROADSPIRE SERVICES, INC., and
SHELDON MYERSON, MD.,
Defendants

CIVIL ACTION NO:
NO: 05-CV-10448-GAO

**PLAINTIFF'S MOTION TO REPLY TO THE OPPOSITION OF THE
DEFENDANTS' TO THE PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT; FOR LEAVE TO EXTEND THE TIME TO SO DO;
AND/ OR TO STRIKE THE DEFENDANTS' OPPOSITION WITHOUT
PREJUDICE**

Now comes the Plaintiff in the above matter and moves the court for leave to reply to the Opposition of the Defendants to her Motion For Summary Judgment.

In support thereof, the Plaintiff says that her Motion For Summary Judgment accompanied by appurtenant memorandum and affidavit was filed on January 19, 2006 by reason of a misunderstanding with regard to the scheduling order also referred to as the tracking order vis a vis the Defendants' Motions To Strike and/or Dismiss various portions of the Plaintiff's Second Amended Complaint, scheduled to be heard on said date.

As a further result, and in an effort to meet the anticipated January 19, 2006 deadline for the filing of the parties' Motions For Summary Judgment, counsel for the Plaintiff, after having just completed a brief for the United States Tax Court, in a complex matter,

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promptly prepared, assembled and filed the Plaintiff's Motion for Summary Judgment well in advance of its true scheduled due date of April 3, 2006.

Since then, on February 3, 2006, counsel for the Defendants filed their Opposition to The Plaintiff's Motion For Summary Judgment.

However, in accordance with the scheduling/tracking order, any such opposition was due by shortly on or before May 5, 2006 with replies thereto due shortly on or before May 19, 2006.

Notwithstanding the foregoing and subject to leave of court under the circumstances, Plaintiff has moved for leave to file an amended/supplementary Motion For Summary Judgment on or shortly before April 3, 2006, i.e. more timely as per the scheduling/tracking order and believes that the present Opposition of the Defendants is under these circumstances, premature and should be stricken, without prejudice, so that to the extent possible, these proceedings may better adhere to the scheduling/tracking order of this court dated November 15, 2005.

In the event, the court would prefer the Plaintiff to address the Defendants' Opposition on the merits, counsel for the Plaintiff further requests leave of court to extend the time for so doing to on or shortly before March 6, 2006, based upon his present scheduling.

CERTIFICATION UNDER LOCAL RULE 7.1(a)(2)

Counsel for the Plaintiff conferred with Defendant counsel on concerning the issues presented by this motion and have attempted without success to resolve or narrow the issues.

WHEREFORE, the Plaintiff moves this court to allow her to reply to the merits of the Opposition of the Defendants by on or shortly before March 6, 2006, unless the court deems it appropriate to strike the Defendants' Opposition, *without prejudice*, and allow

the Plaintiff to file an Amended/Supplementary Motion For Summary Judgment by on or shortly before April 3, 2006, and thereby, as indicated, allowing this matter to now return to proceeding in a more orderly, chronological manner.

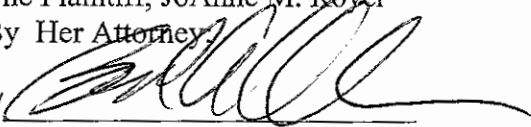
REQUEST FOR ORAL ARGUMENT

Counsel for the Plaintiff believes that oral argument may assist the court and wishes to be heard and therefore doe hereby request oral argument.

Dated: February 17, 2006

The Plaintiff, JoAnne M. Royer
By Her Attorney

s/


BERNARD A. KANSKY, ESQ.
MA BBO # 258040/FED #28209
KANSKY & ASSOCIATES
468 COMMERCIAL ST # 100
BOSTON, MA 02109-1020
(617) 227-2020/Fax (617) 227-5717
Berakan@aol.com